

13 January 2020

Our Reference CAS-433002-FK8BS3

Mr Ian Hepworth

Sent via email to: request-626803-1ee41b5c@whatdotheyknow.com>

Dear Mr Hepworth

### **Your request for information**

Thank you for your email dated 11 December 2019 in which you requested the IDSR used by inspectors in advance of the October 2019 inspection of Lady Lumleys School in Pickering, North Yorkshire (121671).

### **The Freedom of Information Act**

We have dealt with your request in accordance with the Freedom of Information (FOI) Act 2000. The Act provides a right for the public to request information and does not take account of who the requester is or the purpose for which the information is sought.

The first requirement of the Act is that we should confirm whether we hold information of the description set out in your request. Under the FOI Act, we are then under a duty to provide you with all the information we hold which falls within the scope of your request, provided it is not 'exempt' information.

I can confirm that we hold the Inspection Data Summary Report (IDSR) requested.

Section 2(2) of the FOI Act describes circumstances in which information is 'exempt' and therefore does not have to be provided in response to a request. On this occasion, we have concluded that the exemption at section 40(2) applies to a small amount of the information contained within the Inspection Data Summary Report.

We have provided you with the majority of the data from the IDSR. However, where any data relates to the characteristics of small cohort groups within the school, this

data has been redacted from disclosure as we believe that this is the personal data of individual learners at the school. This decision has been explained fully in **Annex A** at the end of this letter.

Please be aware that the data contained within the IDSR can in no way indicate the outcome of the October inspection of the school. The report for this inspection will be published in due course.

I trust that this letter clearly explains our decision under the Freedom of Information Act. If you are dissatisfied with our response and would like to discuss it further, or you have any queries about the response, please contact me at 0300 013 1293 and I will be happy to discuss it with you.

Alternatively, if you remain dissatisfied with our response or the handling of your request, you may request a formal internal review. In order to do this, please write to the following address, setting out which areas of the response you are unhappy with:

Email: Richard McGowan at [informationrequest@ofsted.gov.uk](mailto:informationrequest@ofsted.gov.uk) or write to:

Head of Information Rights and Correspondence  
Ofsted  
2 Rivergate  
Temple Quay  
Bristol  
BS1 6EH

If you are not content with the outcome of the internal review, you also have the right to apply to the Information Commissioner for a decision as to whether or not we have complied with our obligations under the FOI Act with respect to your request. The Information Commissioner can be contacted at:  
<https://ico.org.uk/concerns/getting/>

or:

Customer Contact  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
SK9 5AF

Yours sincerely,

A handwritten signature in grey ink, appearing to be 'Ilona', written in a cursive style.

Ilona Lomas  
Information Access Officer  
Information Rights and Access Team

## **Annex A**

### *Section 40(2)*

Section 40(2) of the FOI Act applies to any requested information which is personal data. Personal data is defined, within the GDPR, as being “any information relating to an identified or identifiable natural person [...] who can be identified, directly or indirectly [...]”. Section 40(2) of the FOI Act sets out a number of conditions which, if they apply to the personal data, mean that it cannot be disclosed to the public.

The first such condition is where disclosing the personal data to the public “would contravene any of the data protection principles”. We think this condition is relevant to this request.

The data protection principles, as set out in Article 5(1) of the GDPR, require that personal data shall be processed lawfully, fairly and in a transparent manner. If no lawful basis can be found, then our processing will contravene this principle. In order to process personal data fairly, Ofsted must only handle it in ways that people would reasonably expect; and not use it in ways that have unjustified adverse effects on them.

The data that Ofsted holds within the IDSR requested is, in some instances, the personal data of individual learners at the school, specifically information on the attainment and characteristics of small cohorts. Individual pupils have an expectation that data about them will solely be used for the purposes for which it is intended and that it will not be shared more widely. There is an expectation that data that Ofsted holds will be held securely and processed in an appropriate manner.

Disclosure of information under the Act has the same effect as publication. It would be unfair to share the personal data of those individuals from the small cohort groups within the Inspection Summary Data Report with the public and we consider it is likely to cause distress or have an adverse effect on them should such information be disclosed. Furthermore Ofsted is expected to ensure that it processes personal data in a lawful way. We believe that disclosure of such data, to the public, would not only be unfair on the individuals to which it relates; but also unlawful. Ofsted has a legal obligation to ensure that it processes personal data in line with the data protection principles set out under the GDPR; we believe that disclosure of data in relation to small cohort groups who could be identified would be in contravention of those principles.

Taking these factors into account we are content that the exemption at section 40(2) of the FOI Act applies; therefore we will not be making a disclosure to you of any information within the reports that relate to small cohort groups.